IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 8155 of 1993

Between:

1.Dr.S.J.Hussain S/o.Syed Ismail, O/o.Director, Central Research Institute

for Union Medicine, Erragadda, Hyderabad R/o.Hyderabad.
2.Dr.Baseera Khatoon D/o.Mohd.Khaleelullah Khan, O/o.Director, Central Research Institute for Union Medicine Erragadda, Hyderabad R/o. Hyderabad.
3.Dr.V.C.Gupta S/o.Late Sri D.R.Gupta, O/o.Director,Central Research Institute for Union Medicine Erragadda, Hyderabad R/o.Hyderabad.
4.Dr.Khursheed Banock W/o.Syed Yaqoob Hussain, O/o.Director,Central Research Institute for Union Medicine Erragadda, Hyderabad R/o. Hyderabad.
5.Dr.Mushtaq Ahmed S/o.Nooruddin Noor, O/o.Director,Central Research Institute for Union Medicine Erragadda, Hyderabad R/o. Hyderabad.
6.Dr.Md.Ali Mirza S/o.Baber Ali Mirza, O/o.Director,Central Research Institute for Union Medicine Erragadda, Hyderabad R/o. Hyderabad.
7.Dr.P.V.Goud S/o.P.Krishnaiah, O/o.Director,Central Research Institute for Union Medicine Erragadda, Hyderabad R/o. Hyderabad.
8.Smt.S.S.Tahera W/o.Yosuf Ali, O/o.Director,Central Research Institute for Union Medicine Erragadda, Hyderabad R/o. Hyderabad.
9.Dr.Taherunnisa W/o.Hussain Ali Afser, O/o.Director,Central Research Institute for Union Medicine Erragadda, Hyderabad R/o. Hyderabad.
10.Dr.Mohd.Ataullah Shareef S/o.Md.Yousuf Shareef, O/o.Director,Central Research Institute for Union Medicine Erragadda, Hyderabad R/o. Hyderabad.
11.Dr.Aloknanda Chakravarthy D/o.Dr.Sukhamay Chakravarthy, O/o. Director, Central Research Institute for Union Medicine Erragadda, Hyderabad R/o. Hyderabad.
12.Dr.Tasneem Sultana W/o.Habeenur Rahman Khan, O/o. Director, Central Research Institute for Union Medicine Erragadda, Hyderabad R/o. Hyderabad.
13.Dr.Mohd.Abdul Wajid S/o.Late M.A.Waheed, O/o.Director, Central Research Institute for Union Medicine Erragadda, Hyderabad R/o. Hyderabad.
14.Dr.M.A.Waheed S/o.M.A.Gaffar, O/o. Director, Central Research Institute for Union Medicine Erragadda, Hyderabad R/o. Hyderabad.
15.Dr.Ashfaq Ahmed Ansari S/o. Rijaz Ahmed, O/o. Director, Central Research Institute for Union Medicine Erragadda, Hyderabad R/o. Hyderabad.

..... PETITIONERS

AND

1.Union of India, rep., by its Secretary, Ministry for Health and Family Welfare, New Delhi.
2.Central Council for Research in Unani Medicine S.Panchasheela Shopping Centre, rep., by its Director. New Delhi.
3.Director Central Research Institute for Unani Medicine, Erragadda, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not granting allowances viz., P.G. Allowance, Book Allowance, Book Grants, Conveyance Allowance, M.Phil/Ph.d. allowance, Academic and Research Pursuit allowance to the petitioners on par with effect from the dates from which similar group 'A' Doctors (Medical and Non-Medical) under the control of Director General of Health Services of Ministry of Health and Family Welfare were sanctioned in implementation of bye law no.44 of the 2nd respondent Council as illegal and violative of Articles 14,16 and 300-A of the Constitution of India and to further declare the impugned order of the 2nd respondent through proceedings F.No.3-35/92-CCAUM/Tech. dated 27-5-1993 as illegal and without jurisdiction and consequently direct the respondents to grant the above said allowances to the petitioners with effect from the dates on which group 'A' doctors (Medical and non-medical) under the Ministry of Health and Family Welfare, were granted, with all arrears and interest.

Counsel for the Petitioners: MR.S.LAXMA REDDY, ADVOCATE.

Counsel for the Respondents: MR.A.RAJASHEKAR REDDY (SC FOR CG)

The Court made the following:

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ORAL ORDER:

Heard both sides.

2. The grievance of the petitioners is that the respondents have not been granting allowances viz., P.G. Allowance, Book Allowance, Book Grants, Conveyance Allowance, M.Phil/Ph.d., Allowance and Academic and Research Pursuit Allowance on par with Group-A Doctors (Medical and Non-Medical) under the control of the Director General of Health Services, Ministry of Health and Family Welfare, New Delhi.

3. It is the contention of the petitioners that through proceedings in F.No.3-35/92-CCAUM/Tech, dated 27-05-1993, the earlier orders, dated 06-08-1992, of the Director, Central Council for Research in Unani Medicine regarding grant of various allowances pursuant to the in pursuance of the directives of Standing Finance Committee of the Council have been withdrawn and the and the amounts paid towards allowances were ordered to be recovered.

4. The interim directions granted by this Court in W.P.M.P.No.10223 of 1993, dated 23-06-1993, are as under:

"Pending further orders, there shall be no recovery of the allowances paid to the petitioners and the impugned order is stayed to that extent."

5. Now, it is represented by the learned counsel for the petitioners that no notice was issued before withdrawing the benefits, which were already granted to them, for the services rendered by them in the capacity of non-teaching staff. It is needless to say that while a benefit, which was conferred upon the petitioners, was being withdrawn, the petitioners must have been put on notice. Obviously, such a step had not resorted to be taken by the respondents.

6. Further more, the learned counsel for the petitioners strenuously contends that the service conditions of the petitioners are governed by the bye-laws of the second respondent. He further brings to the notice of this Court that in similar circumstances, in ***DR. MS. O.Z. HUSSAIN vs. UNION OF INDIA***, the Supreme Court held that the non-teaching staff are eligible to the benefits by way of allowances on par with the teaching staff.

7. Having regard to the facts and circumstances, the petitioners are permitted to make a representation within four weeks from the date of receipt of a copy of this order and upon such representation being made, the respondents shall consider the cases of the petitioners in the light of the bye-laws and also the judgment of the Supreme Court, referred to above. This exercise shall be completed within a period of four months from the date of receipt of representation from the

petitioners.

8. With the above directions, the writ petition is disposed of. However, there shall be no order as to costs.

08TH JULY 2004 D.S.R.VARMA, J

KRK

To:

1.The Secretary, Ministry for Health and Family Welfare, Government of India, New Delhi.
2.The Central Council for Research in Unani Medicine, S.Panchasheela Shopping Centre, rep., by its Director. New Delhi.
3.The Director Central Research Institute for Unani Medicine, Erragadda, Hyderabad.

4.Two CD copies.

5.One spare.